

Judge: Marc Barreca  
Chapter: 13  
Hearing Date: May 28, 2015  
Hearing Time: 9:30 a.m.  
Hearing Location:  
Judge Barreca's Courtroom  
700 Stewart St #7106  
Seattle, WA 98101  
Response Date: May 21, 2015

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:

CYNDEE LEE BAUDHUIN ,

Debtor(s).

IN CHAPTER 13 PROCEEDING  
NO. 15-12350-MLB

DECLARATION OF JOHN BARTON IN  
SUPPORT OF TRUSTEE'S  
MOTION TO DISMISS CASE AND  
BAR RE-FILING FOR 180 DAYS

John E. Barton, declares and states as follows:

1. I am a Staff Attorney employed by K. Michael Fitzgerald, Chapter 13 Trustee (Trustee), and I have personal knowledge concerning the information in this declaration and I am competent to testify to this information.

2. Through my employment I have access to the Trustee's system and records, including debtors' plan payment records.

3. Through my employment I have access to the Court's electronic case filing system.

4. Based on the Trustee's records and the Court's filing system the debtor here has filed four bankruptcy petitions in the Western District of Washington since September 23, 2013. The debtor filed one chapter 7 petition, one chapter 7 which was converted to chapter 13, and two additional chapter 13 petitions. The Trustee was the appointed Trustee for each of the chapter 13 cases.

5. The debtor filed chapter 7 case 13-18474-MLB on September 23, 2013. The debtor did not pay the filing fee, file schedules, a statement of financial affairs, or Form B22A. The Court set a deadline of October 1, 2013 for the debtor to pay the filing fee, and a deadline of October 7,

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Chapter 13 Trustee  
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1 2013 for the debtor to file her remaining documents. The debtor's case was dismissed October 9,  
2 2013 for failing to meet the minimum filing requirements, specifically to pay the filing fee.

3 6. The debtor filed another chapter 7, 13-19040-MLB on October 11, 2013 with the  
4 assistance of counsel. The debtor's chapter 7 petition did list her prior bankruptcy. The debtor  
5 did not pay her filing fee. The Court set a deadline of October 22, 2013 for her to do so. The  
6 debtor did not file her schedules, a statement of financial affairs, or Form B22A. The Court set a  
7 deadline of October 25, 2013 for this deficiency to be corrected. The debtor filed her balance of  
8 schedules, statement of financial affairs, and Form B22A on October 24, 2013. The debtor  
9 requested a waiver of her filing fee, which was denied on October 31, 2013. The debtor's filing  
10 fee was listed a paid in full by November 8, 2013. The Chapter 7 Trustee entered a report of no  
11 distribution on November 20, 2013. The debtor moved to convert her case to one under chapter  
12 13 on December 17, 2013. The debtor's case was converted to one under chapter 13 on January  
13 22, 2014.

14 7. The debtor was required to file amended schedules or a declaration that there had  
15 been no change in the schedules, and a Form B22C by February 5, 2014. The debtor filed amended  
16 schedules D, I, and J and another chapter 7 means test on February 6, 2014. The debtor filed  
17 amended schedules D, I and J, and a Form B22C on February 11, 2014. The debtor filed another  
18 Schedule I on February 12, 2014. The debtor filed a proposed plan on February 12, 2014. Over  
19 the three Schedule I's that were filed (ECF Nos. 28, 30, and 31) the debtor's average monthly  
20 income decreased from \$3,835.10 to \$3,335.10 to \$3,130.40.

21 8. The debtor's first plan (ECF No. 32) filed February 12, 2014 provided for monthly  
22 payments of \$1,715.00 for sixty months with \$1,796.11 worth of periodic payments to secured  
23 creditors. On February 18, 2014 the debtor filed an amended plan (ECF No. 34) with the only  
24 change being the debtor's request to pay the Trustee directly as opposed to a wage deduction. On  
25 March 5, 2014 the debtor filed a third amended plan (ECF No. 35) with a proposed payment of  
26 \$0.00 for a term of 6 months. This amended plan listed her mortgage and HOA creditors, but  
27 removed the payment amounts which were previously listed. The debtor did provide for 100%  
28 repayment to allowed non-priority unsecured claims in Section IV.E.2 of this plan. The language

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1 in Section XII of this plan indicated the debtor's condo had significant equity and she intended to  
2 sell to "pay off all valid claim."

3 9. On March 17, 2014 Green Tree Servicing objected to confirmation of the debtor's  
4 plan because it modified the creditor's rights under the bankruptcy code and there is no definite  
5 provision to cure the arrears on the creditor's claim. On March 18, 2014 the Trustee objected to  
6 confirmation and moved to dismiss the debtor's case. The Trustee objected and moved to dismiss  
7 because none of the creditor's three plan had been served on creditors, there is no proposed  
8 payment, the liquidation value in the plan is blank, the current plan is not feasible, and the language  
9 in Section XII of her most recent plan including findings of fact. The debtor's plans were denied  
10 confirmation on March 26, 2014. The debtor's case was dismissed on the Trustee's motion on  
11 April 3, 2014. The debtor made three payments to the Trustee totaling \$2,345.26.

12 10. The debtor filed case 14-19182-MLB on December 25, 2014 with the assistance of  
13 counsel. This is the debtor's third overall case, and second chapter 13. The debtor's petition listed  
14 only her most recent bankruptcy filing in the petition and did not include 13-18474-MLB. The  
15 debtor did not pay her filing fee, file her schedules, statement of financial affairs, Form B22C, or  
16 a plan. The Court set a deadline of January 5, 2015 for the debtor to pay the filing fee or an initial  
17 installment and application to pay in installments. The Court set a deadline of January 9, 2015 for  
18 the debtor to correct the remaining deficiencies. On December 29, 2014 the debtor paid \$100.00  
19 initial installment payment on her filing fee.

20 11. On January 12, 2015 the debtor requested an extension to file her schedules,  
21 statement of financial affairs, Form B22C, and a plan. This motion was never resolved as the  
22 debtor did not submit a received unsigned order. The debtor's case was dismissed on February  
23 12, 2015 for inadequate filing. No plan payments were received by the Trustee, albeit no plan was  
24 filed.

25 12. The debtor filed the present case without the assistance of counsel. The debtor's  
26 petition lists only her two most recent bankruptcy filings. It does not list 13-18474-MLB. The  
27 debtor has not filed a list of creditors, her schedules, statement of financial affairs, Form B22C, or  
28 a plan. The Court has set a deadline of May 1, 2015 for the debtor to correct the deficient filing.

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1 The debtor's 341 meeting has been set for June 1, 2015. To date the Trustee has not received the  
2 debtor's most recently filed tax return, sixty days proof of income, bank statements, or the Trustee  
3 information sheet. However, this information is not yet due to the Trustee.

4 I certify under penalty of perjury under the laws of the state of Washington that this  
5 information is true and correct to the best of my knowledge.

6  
7 Dated this 22nd day of April, 2015

8  
9 By: /s/ John E. Barton

10 John E. Barton, WSBA # 45529  
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